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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 403,980	01 19 2000	ERIC VIVIER	1721-18	7917

7590 10-30-2002
NIXON & VANDERHYE
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 222014714

EXAMINER	
LANDSMAN, ROBERT S	
ART UNIT	PAPER NUMBER
1647	114

DATE MAILED: 10/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/403,980

Applicant(s)

VIVIER ET AL.

Examiner

Robert Landsman

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. Formal Matters

- A. The Sequence Listing, filed 8/7/02, has been entered into the record.
- B. Amendment C, filed 7/26/02, has been entered into the record.

2. Lack of Unity

A. Claims 1-25 were subject to restriction in Paper No. 6, dated 10/3/01. In Paper No. 10, Applicants elected Group I. However, Applicants failed to elect a specific SEQ ID NO to be examined. Though Applicants stated that all of the Groups should be examined together, they did not provide any traversal to argue why these Groups should be kept together, nor did Applicants elect a specific SEQ ID NO. However, instead of holding this application non-responsive, a new restriction has been made.

- B. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-12, 15, 16, 21, 24 and 25, drawn to an isolated polypeptide, an encoding nucleic acid and a pharmaceutical composition and methods of using said polypeptides.

Group II, claim(s) 13, 14, 22 and 23, drawn to an antibody.

Group III, claims 17 and 18, drawn to a method of obtaining a polypeptide.

Group IV, claim 19, drawn to a method of obtaining the sequence of a polypeptide.

Group V, claim 20, drawn to a method of determining whether a candidate polypeptide corresponds to a known polypeptide.

Group VI, claims 22 and 23, drawn to an in vitro method of diagnosing a function using an antibody.

The invention listed as Groups I-VI do not relate to a single inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature for the following reasons: the special technical feature of Group I is an isolated polypeptide. The special technical feature of Group II is an antibody. The special technical feature of Group III is a method of obtaining a polypeptide. The special technical feature of Group IV is a method of obtaining a sequence of a polypeptide. The special technical feature of Group V is a method of determining whether a candidate polypeptide corresponds to a known polypeptide. The special technical feature of Group VI is an in vitro method of diagnosing a function using an antibody. The special technical feature of each group is not the

Art Unit: 1647

same, or does not correspond to the special technical feature of any other Group. The products of Groups I-II are structurally and functionally distinct, and the methods of Group III-VI require different method steps and reagents for achieving different goals. The Groups are not linked by a special technical feature within the meaning of PCT Rule 13.2 so as to form a single inventive concept.

In order for this response to the lack of unity to be complete, in addition to electing one of Groups I-VI, Applicants are also required to elect one specific SEQ ID NO of SEQ ID NO:2-5, 11-15, 17 and 28 and its corresponding nucleic acid sequence from the group of SEQ ID NO:1, 6-10, 16, 18, 27 and 31.

Advisory information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Landsman whose telephone number is (703) 306-3407. The examiner can normally be reached on Monday - Friday from 8:00 AM to 5:00 PM (Eastern time) and alternate Fridays from 8:00 AM to 5:00 PM (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Gary Kunz, can be reached on (703) 308-4623.

Official papers filed by fax should be directed to (703) 308-4242. Fax draft or informal communications with the examiner should be directed to (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Robert Landsman, Ph.D.
Patent Examiner
Group 1600
October 29, 2002

